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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 PAUL W. HIATT and MARILEEN J.
11 MCMAHON,

12 Defendants.

CASE NO. C10-5333BHS

ORDER

13 This matter comes before the Court on the United States of America's
14 ("Government") motion for reconsideration (Dkt. 166) and Defendant Marileen
15 McMahon's ("McMahon") motion for an extension of time (Dkt. 170). The Court has
16 reviewed the briefs filed in support of and in opposition to the motions and hereby denies
17 McMahon's motion and grants the Government's motion for the reasons stated herein.

18 **I. PROCEDURAL HISTORY**

19 On May 11, 2010, the Government filed a complaint seeking to reduce federal tax
20 assessments to judgment and foreclose federal tax liens against Paul Hiatt ("Hiatt") and
21 McMahon. Dkt. 1.

22 On August 8, 2011, the Government filed a motion for summary judgment. Dkt.
23 106. On December 14, 2011, the Court granted the motion in part and denied the motion
24 in part. Dkt. 152. The Court granted the motion as to all interests that Hiatt has in the
25 property that is located at "7111 Raft Island Rd. NW, Gig Harbor, Washington 98335," or
26 in the alternative, "9702 Kopachuck Dr. NW, Gig Harbor, Washington 98335"
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1 (hereinafter “Subject Property”). *Id.* The Court denied the motion as to McMahon’s
2 interest in the Subject Property. *Id.* The Court requested further briefing on how the
3 parties intended to proceed with the remaining issue. *Id.*

4 On December 20, 2011, the Government filed a response, which included
5 argument that essentially asked the Court to reconsider its order on summary judgment.
6 Dkt. 154. On December 22, 2011, Hiatt and McMahon filed responses and included
7 motions to set aside the trial date. Dkts. 155 & 156. On February 21, 2012, the Court
8 denied the motion to set aside a trial date and set the matter for a one-day bench trial.
9 Dkt. 164. On March 1, 2012, the Government filed a motion for reconsideration. Dkt.
10 166. On March 13, 2012, the Court requested a response from McMahon to the
11 Government’s motion. Dkt. 168. On March 19, 2012, McMahon filed a motion for an
12 extension of time to file a response. Dkt. 170.

14 II. FACTS

15 Although the majority of the facts are set forth in the Court’s summary judgment
16 order, a few facts are relevant to the consideration of the Government’s response (Dkt.
17 154) and instant motion for reconsideration (Dkt. 166). On February 25, 2003, Hiatt filed
18 a quitclaim deed purporting to convey a one-half interest in the Subject Property to
19 McMahon. Dkt. 108, Declaration of Nathaniel B. Parker (“Parker Decl.”), ¶ 20, Exh. 19.
20 The Government claims that just prior to the conveyance on February 25, 2003 and just
21 six days before Hiatt’s filing of the quitclaim deed, the IRS sent Mr. Hiatt notices of
22 deficiency relating to the 1993, 1994, 1995, 1999, and 2000 tax years. Dkt. 107,
23 Declaration of Revenue Agent Sean Flannery (“Flannery Decl.”), Exhs. A-E. It is
24 unknown when Hiatt actually received these notices, but he did attach them to a letter
25 addressed to the IRS dated March 5, 2003. *See* Dkt. 42-3 at 1-19. The Government also
26 contends that Hiatt had previously received notices of delinquent tax returns and proposed
27 tax and penalties from the IRS, and Hiatt had begun his defense to the liability with
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1 correspondence to the IRS. *See, e.g.*, Dkts. 42-1 at 59-99 & 42-2 at 22-29. In the
2 Government's instant motion, the Government directs the Court's attention to a letter
3 from Hiatt to the IRS dated December 16, 2002 in which Hiatt protests notices of tax
4 deficiencies from the IRS for the years 2001, 1995, 1993, 1994, and 1999. Dkt. 166 at 3
5 (citing Dkt. 42-3 at 22-29).

6 **III. DISCUSSION**

7 Motions for reconsideration are governed by Local Rule CR 7(h), which provides
8 as follows:

9 Motions for reconsideration are disfavored. The court will ordinarily deny
10 such motions in the absence of a showing of manifest error in the prior
11 ruling or a showing of new facts or legal authority which could not have
been brought to its attention earlier with reasonable diligence.

12 Local Rule CR 7(h)(1).

13 The Government moves for reconsideration arguing, in part, that Hiatt's transfer to
14 McMahan should be set aside pursuant to RCW 26.16.050. Dkt. 166 at 1-2. In the
15 Court's previous order, the Court stated that the Government "has either failed to direct
16 the Court's attention to [Hiatt's] previously received [tax deficiency] notices in the record
17 or has not filed the previously received notices." Dkt. 164 at 3. In the instant motion, the
18 Government asserts that, due to a "typographical error," the reference to "Docket #42-2,
19 p. 22-29" should have been a reference to "Docket #42-3, p. 22-29." Dkt. 166 at 3. Upon
20 review of this material, the Court finds that Hiatt's transfer to McMahan affected an
21 existing equity in favor of creditors of Hiatt at the time of the transfer, which violates
22 RCW 26.16.050.

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24 The Court requested a response from McMahan. Dkt. 164. Instead of responding,
25 McMahan filed a motion for an extension of time (Dkt. 170) and a motion to reset trial
26 (Dkt. 171). McMahan has failed to show good cause for an extension of time to respond
27 to the Court's simple question. The fact that McMahan had sufficient time to file two
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1 motions alleging various procedural errors shows that she had sufficient time to respond
2 to seven pages of evidence relating to a simple legal issue before the Court. Therefore,
3 the request for an extension is denied.

4 With respect to the issue of a fraudulent transfer, the Government has shown that it
5 is entitled to summary judgment on this issue. Therefore, the Court vacates its previous
6 order that denied the Government's motion for summary judgment and grants the
7 Government's motion.

8 **IV. ORDER**

9 Therefore, it is hereby **ORDERED** that McMahon's motion for an extension of
10 time (Dkt. 170) is **DENIED**, the Government's motion for reconsideration (Dkt. 166) is
11 **GRANTED**, the Court's previous order denying the Government's motion for summary
12 judgment (Dkt. 152) is **VACATED**, and the Government's motion for summary
13 judgment (Dkt. 106) is **GRANTED**. The remaining motions (Dkts. 169 & 171) are
14 **DENIED as moot**.

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16 The Clerk is directed to enter judgment for the Government and close this case.

17 DATED this 10th day of April, 2012.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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